

DAVID J. HERNANDEZ & ASSOCIATES
By: David A. Bonilla
Attorneys for KADEEM MORGAN
26 Court Street, Suite 2707
Brooklyn, NY 11242

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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KADEEM MORGAN,

Plaintiff,

-against-

THE CITY OF NEW YORK, NEW YORK
CITY POLICE DEPARTMENT POLICE OFFICER
OLDSON AJESULAS, Tax Reg. No.: 942931, and
NEW YORK CITY POLICE DEPARTMENT
SERGEANT JONATHAN ROSARIO, Tax Reg. No.:
942478,

Defendants.

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AFFIDAVIT OF DAVID A.
BONILLA, ESQ.

**CIVIL ACTION NO.: 1:15-CV-
03899-SJ-LB**

I, David A. Bonilla, Esq., being duly sworn, depose and say the following:

1. I am an associate at David J. Hernandez & Associates, attorneys for Plaintiff KADEEM MORGAN.
2. I submit this affidavit in support of the Affirmation of David J. Hernandez, Esq., responsive to the Order of the Honorable Magistrate Judge Lois Bloom that Mr. Hernandez show good cause for this office's failure to appear at the initial pretrial conference in this matter, scheduled for Tuesday, December 8, 2015 at 11 A.M. in Courtroom 11A South of the Eastern District of New York, located at 225 Cadman Plaza East, County of Kings, City and State of New York.
3. On Monday, December 7, 2015, Mr. David J. Hernandez, Esq., the principal of David J. Hernandez & Associates, had a mediation session at JAMS, 620 8th Avenue, County, City

and State of New York. Consequently, Mr. Hernandez entrusted me with the responsibility of managing the office's appearance calendar for the following day, Tuesday, December 8, 2015.

4. Accordingly, I assigned appearances to the associate attorneys at this office, including Timothy P. Manning, Esq., Andrea Hoyos, Esq., and myself. However, I neglected to assign the initial pretrial conference, scheduled for December 8, 2015 at 11 A.M. at Courtroom 11A South, to any of the attorneys at the office.
5. Therefore, when Mr. Hernandez twice called the office on December 7, 2015 in order to determine whether the appearances for the following day had been assigned, I erroneously stated yes both times.
6. On December 8, 2015, Mr. Hernandez called the office in the early morning and again inquired as to whether all of the appearances for that day were being handled. Again, I told Mr. Hernandez that they were. Thereafter, I presented myself at Kings County Supreme Court, as I had various appearances thereat.
7. At approximately 11:20 A.M. or so, Mr. Hernandez called my cell phone; however, I did not answer as I was, at that very moment, conducting a compliance conference on the case of Anthony Sandford v. City of New York, et al., Index No.: 10242/2013.
8. Shortly after I completed the compliance conference, I received another call from Mr. Hernandez, which I was able to answer. I have been working at this office since February 20, 2015; I was admitted to practice and thereby became an associate at this office on May 20, 2015. During the time that I have worked at this office, I had never heard Mr. Hernandez in such a frazzled state. Mr. Hernandez sounded to me to be truly distressed and panicked, and I shortly understood why: Mr. Hernandez informed me that

we were now late to appear at a conference on the Kadeem Morgan case. It was not until I heard the name “Kadeem Morgan” that I realized that I had neglected to assign the initial pretrial conference to any attorney at the office.

9. I told Mr. Hernandez of my error, whereupon he instructed me to run over to Courtroom 11A South in order to meet Andrea Hoyos, Esq., who was already on her way there with the physical file. Mr. Hernandez informed me that he spoke with the Part Clerk, who told Mr. Hernandez that we—meaning Andrea Hoyos, Esq., and myself—should get to the courtroom as quickly as possible. As such, I hastily requested an adjournment of the compliance conference on Steven Merriman v. City of New York, et al., Index No.: 20436/2013, and ran over to Courtroom 11A South.
10. I ran into Ms. Hoyos outside of Supreme Court Kings County, and together we made our way over to the Eastern District of New York, where we arrived at approximately 11:35 A.M. However, both Ms. Hoyos and I were held up at security, such that we were unable to make our way up to the 11th Floor until approximately 11:40 A.M.
11. Ms. Hoyos made it through security before I did; accordingly, when I finally arrived outside of Courtroom 11A South, Ms. Hoyos was already there. She informed me that the Part was locked. Shortly thereafter, three individuals stepped out of the Part, whereupon Ms. Hoyos and I used the opportunity to make our way inside, only to find that the Part was empty. Ms. Hoyos and I sat down in the Part in the hopes that someone from the Court would step out and speak with us. This did not happen.
12. Accordingly, at approximately 11:55 A.M., Ms. Hoyos called the chambers of Magistrate Judge Lois Bloom, and was informed by the Clerk that the proceedings had been terminated.

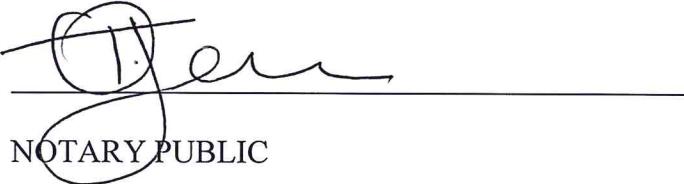
13. I hold myself singularly responsible for this office's failure to appear at the initial pretrial conference. I was entrusted with the responsibility of assigning appearances to the attorneys in the office and I neglected to properly handle that responsibility. I offer my sincere apologies to the Court, Magistrate Judge Lois Bloom and her Court personnel, as well as the attorneys from the Corporation Counsel. I humbly implore that the Court forego the imposition of sanctions upon Mr. Hernandez and me.

Dated: Brooklyn, New York
December 19, 2015



DAVID A. BONILLA, ESQ.

Sworn to before me this 21 day of December, 2015



NOTARY PUBLIC

TASHIKA I GERMAN
Notary Public, State of New York
No. 01GE6274611
Qualified in Queens County
Commission Expires 01/14/2017